

PROVISIONAL ELECTION

Applicants hereby provisionally elect **Group I, drawn to claims 1-18.**

Applicants' election is made with traverse.

TRAVERSAL

Applicants respectfully traverse the Examiner's restriction requirement for the following reasons.

Applicants respectfully traverse this restriction/election requirement because at the very least, Groups I and II, which the Examiner alleges have no unity of invention, share a **special technical feature** under PCT Rule 13.2, and thus, all of the presently pending claims possess unity of invention. Accordingly, restriction is improper.

PCT Rule 13.2 states the following, in relevant part:

"[T]he requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression 'special technical features' shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art."

In the present application, the special technical feature that is shared between Groups I and II is crystalline ciclesonide. Applicants assert that all of the recited features of the crystalline ciclesonide and the compositions containing crystalline ciclesonide are novel and unobvious over the prior art as a whole. Further, the special technical feature, i.e., the crystalline ciclesonide links Groups I and II. Thus, the restriction requirement should be reconsidered.

In view of the foregoing, Applicants respectfully submit that the claims of Groups I and II possess "unity of invention" because they share a special technical feature as required by PCT Rule 13.2. Thus, restriction of the claims of Groups I and II is

improper. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the restriction requirement of the claims of Groups I and II.

Applicant further submits that the claims of Groups I and II should be examined together because, in addition to being improper on the basis of unity of invention, the restriction requirement is further traversed because it omits "an appropriate explanation" as to the existence of a "serious burden" if a restriction were not required between the claims. See MPEP § 803. A complete and thorough search for the inventions set forth in the Official Action would be coextensive. Thus, it would not be a **serious** burden upon the Examiner to examine all of the claims in this application.

Furthermore, Applicant has paid a filing fee for an examination of all the claims in this application. If the Examiner refuses to examine the claims paid for when filing this application and persists in requiring applicants to file divisional applications for each of the groups of claims, the Examiner would essentially be forcing Applicant to pay duplicative fees for the non-elected or withdrawn claims, inasmuch as the original filing fees for the claims (which would be later prosecuted in divisional applications) are not refundable.

CONCLUSION

If the Examiner has any questions or wishes to discuss this matter, the Examiner is welcomed to telephone the undersigned attorney.

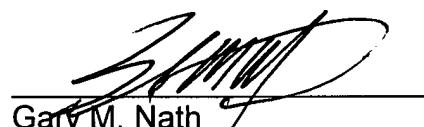
In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 14-0112.

Respectfully submitted,

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